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Paper No. 5

TOWNSEND AND TOWNSEND AND CREW, LLP  
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SAN FRANCISCO CA 94111-3834

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**JAN 03 2003**

**OFFICE OF PETITIONS**

In re Application of	:	DECISION ACCORDING
Kuo, Polikoff, Pinkel, Albertson, Berchuk, Grey	:	STATUS UNDER
Application No. 09/819148	:	RULE 47(a)
Filed: March 27, 2001	:	AND
Attorney Docket No. 02307O117500	:	PETITION UNDER RULE 137(b)

This is in response to the petition under 37 CFR 1.47(a) for an inventor who refuses to sign and under 1.137(b) to revive an unintentionally abandoned application, filed October 28, 2002.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is also **GRANTED**

**PETITION TO ACCORD 1.47(A) STATUS**

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

A "Notice to File Missing Parts of Non-Provisional Application" ("Notice") was mailed to petitioner on May 25, 2001, indicating that petitioner neglected to file a proper oath or declaration in compliance with 37 CFR 1.63. The Notice also advised petitioner that a \$65.00 surcharge was also due because a proper oath or declaration was not timely filed. The Notice set forth a period of reply of two months from its mailing date and indicated that extensions of time for reply were available pursuant to 37 CFR 1.136(a). Accordingly, this application became abandoned on July 26, 2001

In response thereto, petitioner filed the instant petition. Petitioner also filed several accompanying exhibits through which petitioner established that although inventor Polikoff was presented with a complete copy of the application papers, the inventor has, to date, failed to execute the same. Inventor Polikoff's failure to return the declaration, in spite of his presumed receipt of the same, will be interpreted as constructive refusal to join the prosecution of the application.

Petitioner has shown that the non-signing inventor has refused to join the filing of the above-identified application after having been presented with the application papers, and the above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

Deposit Account 20-1430 has been charged \$130.00 for the required petition fee as authorized

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION  
UNDER 37 CFR 1.137(b)

As indicated above abandoned on May 7, 2002, for failure to respond to a notice of missing parts.

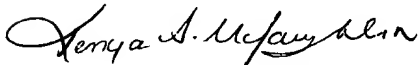
Petitioner has responded by filing a declaration executed by the participating inventors, a petition to accord the application rule 1.47(a) status (addressed above), a fee for a five-month extension of time in the amount of \$980.00, a late filing fee in the amount of \$65.00, and a petition fee in the amount of \$640.00.

The extension of time requested was not timely filed within the extendable time period set by the Notice, thus it has not been accepted. The fee for the extension of time has not been charged.

Pursuant to the authorization provided by petitioner, Deposit Account 20-1430 will be charged a late filing fee in the amount of \$65.00, and a petition fee in the amount of \$640.00.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this decision should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010.



Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy



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LETTER

Daniel Polikoff  
564 Central Ave. #210  
Alameda, CA 94501

In re Application of  
Kuo, Polikoff, Pinkel, Albertson, Berchuk, Grey  
Application No. 09/819,148  
Filed: March 27, 2001  
Attorney Docket No. 02307O117500

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**OFFICE OF PETITIONS**

Dear Mr. Polikoff:

You are named as a joint inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries concerning this communication should be directed to Gregory J. Toatley, Jr. at (703) 305-4066 or to the undersigned at (703) 305-0010. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

Kenya A. McLaughlin  
Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy

cc: TOWNSEND AND TOWNSEND AND CREW, LLP  
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